<u>Remarks/Arguments</u>

Claims 1-33 are pending in the present application. Claims 1, 11, 21 and 31-33 are currently amended. Claims 25 and 27-30 were previously presented.

In claims 1, 11, and 21, the amended claim language related to the retail level of access is supported by the application at least on page 8 at paragraph 30 and on page 13 at paragraph 53, for example. In claims 1, 11 and 21, the amended claim language related to the different levels of access, the retailer's control of access, and limiting of accessible information is supported by the application at least on page 8 at paragraphs 30 and 33, on page 13 at paragraph 53, and on page 13 at paragraphs 72 and 73, for example. In claims 1, 11, and 21, the amended claim language related to the incentive program is supported by the application at least on page 4 at paragraph 19, for example. In claims 1, 11, and 21 the amended claim language related the program manager for the incentive programs and the financial screening system of the data processing system is supported by the application at least on pages 3-4 at paragraphs 18 and 19 and in FIG. 1, for example.

Claims 32 and 33 were amended for to comply with antecedent basis requirements and not to overcome any cited prior art.

<u>35 U.S.C. § 112</u>

Claims 1-10, 28, and 31 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctively claim the subject matter which applicant regards as the invention. In particular, the Office Action alleges that claims 1 and 31 recite the limitation of "the preferential program" with insufficient antecedent basis. (Office Action at page 2-3.) This rejection is respectfully traversed for the following reasons.

Applicants have amended claims 1 and 31 to recite "the preferential one" instead of "the preferential program," consistent with the claim language. Applicants respectfully request a withdrawal of the section 112 rejection of claims 1 and 31. Claims 2-10 and 28 depend on claim 1 and are patentable for at least the same reasons as claim 1.

<u>35 U.S.C. § 103</u>

Claims 1-5, 7-9, 11-15, 17-19, 21-23 and 25-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. No. 2001/0047307 A1 ("Bennett") in view of U.S. Pub. No. 2003/0163401 A1 ("Dines") and in further view of the publication of D. Aaker, V. Kumar, and G. Day, Marketing Research (Seventh Edition) ("Aaker") and in further view of U.S. Pub. No. 2002/0077867 A1 ("Gittins.") This rejection is respectfully traversed for the following reasons.

<u>Bennett</u>

Bennett discloses an on-line purchasing system that supports buyer affordability screening. (Abstract.) Bennett selects buyers to whom incentives are distributed (e.g., via e-mail). (Bennett at paragraphs 146 and 151.) Bennett also selects loan offerings for a given good or service selected by a buyer. (Bennett at paragraphs 38 and 152.) The "affordability-based web server may identify an additional and superior loan offering or good pricing that may convince the buyer to complete the transaction." (Bennett at paragraph 146.) Bennett discloses that the "lender may identify buyers having pending underlying transactions involving, or who have show interest in, the goods, services or financing of the lender or seller." (Bennett at paragraph 148.) Bennett references the "personal credit history" of the buyer (Bennett at paragraph 105) and "loan history" of loans within the lender's portfolio. (Bennett at paragraph 96.)

<u>Dines</u>

Dines discloses a method for forming a loan agreement where the lender contractually shares in the proceeds from a future sale of commodity. (Dines, Abstract and claim 1.) In Dines the lender shares in the grower's risk based on the price level of the commodity, for example. (Dines at paragraph 63.) The lender may provide a lower interest rate to the grower in exchange for the ability to share benefits when the market price of a commodity grown by the grower is high. (Dines, paragraphs 62 and 63.)

<u>Aaker</u>

Aaker discloses that "the system combines a database full of information about customers' buying habits with analytical software that, among other things, gives buyers answers to key marketing questions: which products and colors sold

best, which vendors were most profitable, which time of the year was best for selling particular items, like sneakers." (Aaker at page 691.) Aaker references "a database should attempt to create .. relevant **organization data for industrial buyers** .. perhaps information about the area of the organization's economic or social location..." (Aaker at page 693). Aaker discloses that "a database should attempt to create .. recency/frequency/monetary transaction history by date, dollar amounts (cumulative) of purchase, and product (lines) purchased." (Aaker at page 693.)

<u>Gittins</u>

Gittins discloses an automated claims fulfillment system for insurers that appears to be geared toward automobile insurers and collision auto repair shops that do business with the automobile insurer. (E.g., Paragraphs 2, 14, and 337.) "As auto-repair shops, suppliers 16 might bid, for example, for a slice of the volume within a particular metropolitan area." (Paragraph 337.) "Claims fulfillment system 18 receives bids from multiple suppliers 16 (for example, within a metropolitan area for auto-repair), compares bids and then works out the best combination of bids (which may be a combination of price, capacity, geography, service etc.). As an example, a system administrator may be able to select how the best combination should be determined. Alternatively, for example, claims fulfillment system 18 might automatically determine the best combination in accordance with programmed instructions, without allowing a system administrator to make any type of decision or selection." (Paragraph 339.)

Similarly, "in some embodiments of the present invention, for example, claims fulfillment system 18 might automatically assign the claim to one of the suppliers (i.e., repair shops) 16 with whom guaranteed future volume has been allocated within a particular metropolitan area. Alternatively, for example, claims fulfillment system 18 might simply present a list of approved suppliers to claimant 14 (see FIG. 1.), where the approved suppliers are those that won bids for future claims fulfillment volume. Claimant 14 could then select a supplier from the list." (Paragraph 370.) "Claimant 14 may be allowed to select a supplier from the list, or to select a different supplier not on the list. In such an embodiment, claimant 14 might be provided with incentives to select a supplier from the list." (Paragraph 370.)

<u>The alleged combination of the four references lacks several claimed features in claim 1, 11 and 21 with respect to the selecting of available incentive programs as noted below.</u>

Even if Bennett, Dines, Aaker, and Gittins could be combined, the alleged combination of Bennett, Dines, Aaker, and Gittins would not meet claim 1 or claim 11. In particular, the alleged combination of Bennett, Dines, Aaker, and Gittins lacks: "selecting, **by a particular retailer with a retail level of access to the data processing system,** the available incentive programs from the library of incentive programs through the discretion of a particular retailer servicing a particular producer based on retailer preferences comprising a geographic region that the retailer services, historic sales, and a supplier relationship with one or more suppliers of the incentive programs, **the retailer level of access being different from a producer level of access to the data processing system by the producers, the particular retailer controlling the level of access of the producers to the data processing system to support limiting accessible information to the producers to the selected available incentive programs"** as set forth in claim 1 and claim 11 (Emphasis added). Similarly, claim 21 calls for "the available incentive programs selected, **by a retailer with a retail level of access**, from a comprehensive list of incentive programs through the discretion of a particular retailer servicing the producer based on retailer preferences comprising a geographic region that the retailer services, historic sales, or a supplier relationship with one or more suppliers of the incentive programs, **the retailer level of access being different from a producer level of access to the data processing system by the producers, the particular retailer controlling the level of access of the producers to the data processing system to support limiting accessible information to the producers to the selected available incentive programs."** (Emphasis Added.)

The Office Action acknowledges that "neither Bennett nor Dines disclose selecting incentive programs based on retailer preferences comprising a geographic region that the retailer services, historic, sales and a supplier relationship with one or more suppliers of the incentive programs." (Office Action at p. 5.)

Aaker does not make up for the above noted deficiency in Bennett and Dines. Aaker merely discloses information for industrial buyers, as opposed to the selection of available incentive programs based on retailer discretion, as noted above. In

particular, Aaker discloses that "the system combines a database full of information about customers' buying habits with analytical software that, among other things, gives buyers answers to key marketing questions: which products and colors sold best, which vendors were most profitable, which time of the year was best for selling particular items, like sneakers." (Aaker at page 691.) Aaker references "a database should attempt to create .. relevant **organization data for industrial buyers** .. perhaps information about the area of the organization's economic or social location..." (Aaker at page 693). Aaker discloses that "a database should attempt to create .. recency/frequency/monetary transaction history by date, dollar amounts (cumulative) of purchase, and product (lines) purchased." (Aaker at page 693.)

The Office Action cites Gittins in an attempt to make up for the above noted deficiencies in the alleged combination of Bennett, Dines, and Aaker. However, Gittins has significant differences with respect to the claim language of claims 1, 11 and 21.

First, Gittins, alone or in combination, does not select "available incentive programs from the library" that are available through the retailer as recited in claim 1, 11, and 21. Instead of selecting incentive programs, Gittins merely discloses the selection of one or more suppliers. Gittins allows the insurer to favor the selection of suppliers that offer discounts in exchange for volume of auto repair work. Although Gittins references incentives, it is not in the context of the insurer selecting available incentive programs from a list, but rather "claimant 14 might be provided with incentives to select a supplier from the list." (Paragraph 370.) Here, the insurer in Gittins appears to have a financial interest in the insured selecting a supplier consistent with the insurer meeting "the volume guaranteed to suppliers." (Paragraph 370.)

Second, the Gittins claims fulfillment system does not appear to limit the insured customer's access to information about suppliers that is included on a preferential list of auto repair suppliers. "In some embodiments of the present invention, for example, claimant 14 may be allowed to select a supplier from the list, or to select a different supplier not on the list." (Paragraph 370.) Gittins teaches away from claims 1, 11 and 21 because the insured customer can select the supplier repair shop from a preselected list provided by the insurer, or outside the preselected list. (Paragraph 370.) In contrast, claims 1, 11, and 21 call for "the particular retailer controlling the level of access of the producers to the data processing system to

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support limiting accessible information to the producers to the selected available incentive programs." In claims 1, 11 and 21, the producer would not be able to select unlisted incentive programs that are not "available incentive programs" as controlled by the retailer.

Third, the Gittins claim fulfillment system does not mention or disclose the provision of different levels of access of the data processing system, such as the claimed retailer level of access and the producer level of access, as set forth in claims 1, 11 and 21. "In some embodiments of the present invention, for example, claimant 14 may be allowed to select a supplier from the list, or to select a different supplier not on the list." (Paragraph 370.) Accordingly, in some embodiments, Gittins appears to suggest that the insurer and the customer have the same level of access with respect to listed and unlisted suppliers. Although Bennett selects buyers to whom incentives are distributed via e-mail (Bennett at Paragraphs 146-151), claims 1, 11 and 21 call for a producer level of access directly to the data processing system.

Fourth, in one embodiment of Gittins, the "claims fulfillment system 18 might automatically assign the claim to one of the suppliers (i.e., repair shops) 16 with whom guaranteed future volume has been allocated within a particular metropolitan area." (Paragraph 370.) Here, Gittins appears to deprive the customer of any further selection, contrary to claims 1, 11, and 21 that provide for "supporting selection f a preferential one of the candidate incentive programs via the interface."

The above noted differences between the claim language (of claims 1, 11 or 21) and the alleged combination favors a finding of nonobviousness under the analysis of *Graham v. John Deere Co.*, 383 U.S. 1 (1966). The section 103 rejection does not meet claims 1, 11, and 21 because the alleged combination lacks at least the above noted claimed features.

The Office Action's section 103 rejection is based on selectively picking certain features from different references and cobbling together those selected features from four different references in a contrived way with the benefit of improper hindsight in an attempt to meet the claims. The claim in the patent document under analysis may not be used in hindsight to show the obviousness of combining individual elements selected from different references. See, e.g., *Pentec, Inc. v. Graphic Controls Corp.*, 776 F.2d 309 (Fed. Cir. 1985). Further, the fact that four references, as opposed to a lesser number, must be combined in an attempt to meet

the claims indicates that the claims are nonobviousness.

For the foregoing reasons, the alleged combination of Bennett, Dines, Aaker and Gittins does not meet claim 1, claim 11, or claim 21 and the claims are nonobvious. Claims 2-10, 27, 28 and 31 depend on claim 1 and are patentable for at least similar reasons to claim 1. Claims 12-20, 29, and 32 depend on claim 11 and are patentable for at least similar reasons to claim 11. Claims 22-26, 30 and 33 depend upon claim 21 and are patentable for at least similar reasons to claim 21. Applicants respectfully request withdrawal of the section 103 rejection of the above claims.

<u>The alleged combination lacks several claimed features in claim 1, 11 and 21 with respect to the transferring of data from a program manager to financial screening process as noted below.</u>

Even if it were possible to combine Bennett, Dines, Aaker, and Gittins the alleged combination of Bennett, Dines and Aaker would not meet claim 1, 11 or 21.

With respect to claim 1, the alleged combination lacks at least the features of "transferring the crop planning data and incentive program data on the preferential one from a program manager for the incentive programs to a financial screening process of a financial screening system of the data processing system to reduce or eliminate duplicative reentry of the background data applicable to the incentive programs and the financial screening process associated with financing of the products via electronic communications, where an application data capture module populates an application for the financial product based on the gathered background data."

Similarly, claim 11 recites "transferring the gathered background data and selected incentive program data from a program manager for the incentive programs to a financial screening process of a financial screening system of the data processing system to reduce or eliminate duplicative reentry of the background data applicable to the incentive programs and the financial screening process associated with financing the products via electronic communications, where an application data capture module populates an application for the financial product based on the gathered background data."

Similarly, claim 21 calls for "transferring the gathered background information

and selected preferential incentive program from a program manager for the incentive programs to a financial screening process of a financial screening system of the data processing system to reduce or eliminate duplicative reentry of the background data applicable to the incentive programs and the financial screening process associated with financing the products, where an application data capture module populates an application for the financial product based on the gathered background data."

Neither Bennett, nor Dines, nor Aaker, nor Gittins, alone, or in combination, disclose transferring the crop planning data (or background data) and incentive program data on the preferential program to a financial screening process, as recited in claims 1, 11, or 21. The Office Action acknowledges that "Bennett does not disclose receiving crop planning or background data of a particular producer and wherein the crop planning data is sent along with the inventor program to a financial screening process." (Office Action at p. 5.)

The Office Action erroneously continues that "Bennett discloses where informational data associated with the transaction may be sent with the incentive program data for financial screening (paragraph 127)..." (Office Action at p. 5) The Office Action mischaracterizes Paragraph 127 of Bennett because Bennett does not refer to any "incentive program data" in Paragraph 127 and even the transmission of good or service data to a lender is optional. Instead, Bennett merely references that: (1) "in block 1150, loan applications are delivered to all applicable integrated lenders that operate independently" and (2) "the information provided to the applicable lenders that operate independently may or may not contain any information pertaining to any selection of good(s) and/or service(s) performed in the block 1110." (Paragraph 127)

In contrast to Bennett, alone or in combination, the transferring in the claim 1, 11 and 21 refers to transferring crop planning data (or background data) and incentive program data "from a program manager for incentive programs to a financial screening process of a financial screening system of the data processing system," as opposed to transferring a loan application to a lender as referenced in Paragraph 127 and elsewhere in Bennett.

Further, claims 1, 11 and 21 recites various additional features associated with the transferring of data between the program manager and the financial screening process including "where an application data capture module populates an

application for the financial product based on the gathered background data." Instead, the alleged combination would merely provide for "buyer signature capture" and commonplace entry of loan application data via a buyer web browser as taught by Bennett. (Paragraph 74.)

The Office Action vaguely cites five pages of Dines for the proposition of "offering of incentives and loans for agricultural related transactions." (Office Action at p. 5) However, the Office Action mischaracterizes or confuses the significance of Dines and does not quote any particular language that supports the foregoing misinterpretation of Dines. Dines neither discloses incentive programs for agricultural input products, nor sharing background data for both the incentive program and financial screening. Rather, Dines discloses a method for forming a loan agreement where the lender contractually shares in the proceeds from a future sale of commodity. (Dines, Abstract and claim 1.) In Dines the lender shares in the grower's risk based on the price level of the commodity, for example. (Dines at paragraph 63.) The lender may provide a lower interest rate to the grower in exchange for the ability to share benefits when the market price of a commodity grown by the grower is high. (Dines, paragraphs 62 and 63.)

Aaker and Gittins, alone or in combination, do not make up for the above noted deficiencies of Bennett and Dines with respect to transferring of data from a program manager to a financial screening process. For example, Gittins was not cited for transferring of data from a program manager to a financial screening process, but rather with reference to the selecting of available incentive programs, as noted above.

The above differences between the claims and the prior art favor a finding of obviousness under the analysis of *Graham v. John Deere Co.*, 383 U.S. 1 (1966). The alleged combination of Bennett, Dines, Aaker, and Gittins relies upon the contrived selection of features from four different references that were not designed or even contemplated to work together. Further, the Office Action, selectively combines features of the multiple references with the improper use of hindsight and with misinterpretation of the plain meaning of the references.

For the above reasons, Applicants respectfully request withdrawal of the section 103 rejections of claims 1, 11, and 21.

Claims 2-10, 27, 28, and 31 depend on claim 1 and are patentable for at least similar reasons to claim 1. Claims 12-20, 29, and 32 depend on claim 11 and are

patentable for at least similar reasons to claim 11. Applicants respectfully request withdrawal of the section 103 rejection of the above claims. Claims 22-26, 30 and 33 depend on claim 21 and are patentable for at least similar reasons to claim 21.

Claims 6, 10, 16, 20, 24 and 31-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bennett, Dines and Aaker and further in view of Official Notice. This rejection is traversed for the following reasons.

Bennett, Dines and Aaker fail to meet independent claims 1, 11, and 21 for at least reasons similar to those more fully set forth above in conjunction with the discussion of the rejection based on Bennett, Dines, Aaker and Gittins. The Official Notice merely relates to certain features of specific dependent claims that depend upon claims 1, 11 and 21, and, hence, cannot cure the above noted deficiencies in claims 1, 11 and 21. Applicants respectfully request withdrawal of the above rejection of claims 6, 10, 16, 24, and 31-33, which depend upon independent claim 1, 11 or 21.

Any and all claim limitations that were not expressly discussed above generally were not submitted to overcome any prior art, but to place the claims in better form or to improve their clarity.

In conclusion, the claims are in suitable condition for allowance for the above reasons and the Applicants seek allowance of all of the pending claims. Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0525.

Respectfully submitted

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